

The 4th and 14th Amendments of the U.S. Constitution: Impact of Constitutional Amendments on Child Welfare Work

Section 3



The 4th Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The 4th Amendment focuses on two distinct rights of individuals.

The first right is protection against unreasonable searches and seizures. Seizing a person fits under the protection of this amendment.

The second right is the proper use of warrants. Warrants may be issued only if there is probable cause. We obtain warrants in child welfare based on probable cause that a child is at risk of abuse or neglect before taking a child into custody.

The only time that these rights can be waived is if a person poses a risk to themselves or others.

The 4th Amendment was one of the original 10 amendments proposed by the

4th Amendment

One of the original 10 amendments

founding fathers.

The 4th Amendment was
proposed on the 17th of September
1787 and became effective on the
4th of March 1789.

The 4th Amendment was part

of the Bill of Rights written by George Mason, Thomas Jefferson and James
Madison. It was originally written as a Bill of Rights to the Virginia State
Constitution by George Mason. Thomas Jefferson proposed that the
U.S. Constitution needed a similar Bill of Rights and, with the drive of James
Madison, the Bill of Rights was passed by Congress.

The 4th Amendment was based on
English case law. In the case of
Semayne in 1604, it was resolved
that “The house of everyone is his
castle.” It was established that the
king’s men could forcibly enter a

4th Amendment

Semayne’s Case

man's house only if they had a warrant, the warrant stated the reason for the entry, and they have first requested entry.

One of the most famous English cases around unlawful seizure was Entick v.

4th Amendment

Entick v. Carrington

Carrington. John Entick and his associates entered the home of Nathan Carrington under a general warrant. They searched his house for four hours without the warrant specifying where and what they could search.

This was deemed inappropriate by the court because the warrant was not issued on probable cause and no record was made of what had been seized. The court determined that only papers of a criminal nature could be seized, not all the papers in possession of the individual.

These cases are important because they set the precedent for our 4th Amendment rights. The 4th Amendment protects an individual's privacy and requires that search and seizure be based on probable cause.

The 14th Amendment

Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

There are several sections to the 14th Amendment. The first section is the part that is applicable to child welfare work.

The 14th Amendment focuses on due process and equal protection. This amendment requires the states to provide equal protection under the law to all persons, not only citizens, within their jurisdictions. This means that states must provide the substantive rights of free speech, freedom of religion, protection from unreasonable searches and cruel and unusual punishment and other limitation on governmental power to all individuals within the state.

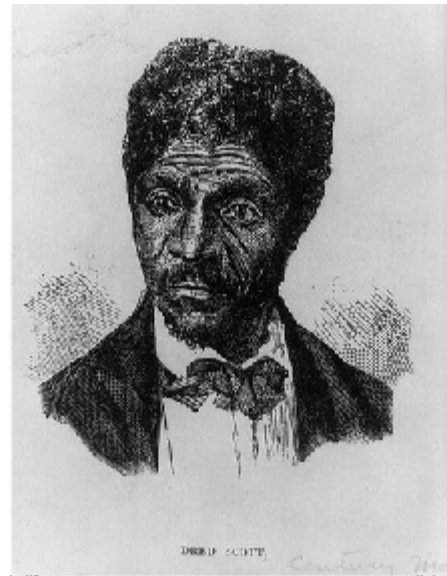
Dred Scott, a black slave, filed a petition for he and his wife's freedom

14th Amendment

Dred Scott v. Sanford

based on the fact that he and his wife Harriet had lived, while slaves, in states and territories where slavery was illegal. In 1857 the Supreme Court ruled that African Americans were not and could not

become citizens of the United States or enjoy any of the privileges and immunities of citizenship. They ruled 7 to 2 against Scott, stating that slaves were property, and the court would not deprive slave owners of their property without due process of law. And since Dred Scott and his wife were property, not citizens, they were not entitled to freedom, or to protection under any states laws.



This was followed several years later by the Civil Rights Act of 1866 which granted U.S. citizenship to all persons born in the United States. This law was passed by a majority of Congress after being vetoed by President Andrew Johnson. The 14th Amendment was proposed on the 13th of June 1866 and became effective on the 9th of July 1868. One of the motivating Supreme Court decisions for this

amendment was the Dred Scott v. Sanford Case. The framers of the 14th Amendment wanted to give constitutional support for the Civil Rights Act of 1866 so that no persons, regardless of race, could be denied citizenship and the rights accompanying citizenship.

Further Supreme Court decisions have interpreted the 14th Amendment to

14th Amendment

Supreme Court Decisions

include privacy and some parental rights within its pervue.

The 14th Amendment empowered the federal courts to enforce the rights of due process and equal protection. This empowered them to intervene to guarantee these

14th Amendment

Supreme Court Decisions

rights to those living in the United States

Today we see a system of state and federal courts enforcing the same rights
for each individual in the United States.

Congratulations, you have now finished Section 3.

Answer the quiz questions for this section so that you will be prepared to answer them when you take the quiz in the last section of the training.

4th and 14th Amendment quiz questions

1. How are we currently fulfilling the 4th Amendment in child welfare in Utah?
 - a. By holding Child and Family Team Meetings
 - b. By taking children into custody
 - c. By obtaining warrants to take children into custody
 - d. By providing parents with Child and Family Plans

2. How are we currently fulfilling the 14th Amendment in child welfare in Utah? (select all that apply)
 - a. By taking children into custody when we have evidence they have been abused
 - b. By taking children into custody when we have evidence they have been neglected
 - c. By scheduling hearings within 30 days of taking custody of a child
 - d. By notifying parents of hearings after a child has been taken into care

3. The 4th Amendment protects individuals from:
 - a. Unreasonable searches and seizures
 - b. Having their children taken into custody
 - c. Investigations by state agencies
 - d. Having their parental rights violated

4. The 14th Amendment provides individuals with (select all that apply):
 - a. Due process
 - b. Protection from TPR
 - c. Formera Pauperis
 - d. Equal protection

Check back through your workbook to make sure that your responses are correct.

To move onto Section 4, Learning about Child Welfare from the Court Decisions of the U.S. Supreme Court and the U.S. Circuit Courts, make the appropriate selection on the training menu. Be sure and print out the corresponding section of the Participant Workbook before you begin.